

SENATE NO. 326

AN ACT ESTABLISHING A DEAF CHILDREN'S BILL OF RIGHTS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 198 the
2 following section:—
- 3 Section 198A. The commission shall certify the sign language or oral/aural communication
4 proficiency of professionals and para-professionals who are providing direct or related services
5 pursuant to an individualized education plan to deaf and hard of hearing pupils in the school. For the
6 purposes of this section, such direct and indirect service providers shall include teachers of the deaf,
7 speech therapists, counselors, interpreters, teaching associates and others as appropriate.
- 8 The department of education shall acknowledge the commission certification awards or acceptance by
9 the commission of other certifying entities as meeting communication proficiency standards within its
10 certification process for said educational personnel.
- 11 No person shall be employed by a school district in any of the positions enumerated herein who has
12 not been certified, but the department may issue a temporary certification effective for up to three

13 years-to an applicant seeking certification under the provisions of this section, provided that the
14 applicant is pursuing an educational program to attain competence in communication.

15 SECTION 2. Section 1B of chapter 69 of the General Laws, as appearing in the 2004 Official Edition,
16 is hereby amended by inserting after the 22nd paragraph the following paragraph:—

17 The board shall provide information to schools, through referral by the commission for the deaf and
18 hard of hearing children’s services specialists or other appropriate persons concerning educational,
19 medical, cultural and linguistic issues of deafness and hearing loss to meet the individual educational
20 needs of deaf and hard of hearing children.

21 SECTION 3. Section 38G of chapter 71 of the General Laws, as so appearing, is hereby amended by
22 inserting after the 20th paragraph the following two paragraphs:—

23 Competence in sign language or oral/aural communication shall be a requirement for initial
24 certification as a teacher of students who are deaf or hard of hearing. Such competence shall be
25 verified through a communication proficiency assessment certification process determined by the
26 commission for the deaf and hard of hearing.

27 Competence in interpreting shall be a requirement for initial certification by the department for
28 educational interpreters. Such competence shall be determined by the commission for the deaf and
29 hard of hearing.

30 SECTION 4. Chapter 71B of the General Laws is hereby amended by inserting after section 3A the
31 following section:—

32 Section 3B. As used in this section, the following terms shall have the following meanings:

33 “American sign language”, the visual/gestural language used by deaf people in the United States and
34 Canada, with semantic, syntactic, morphological, and phonological rules which are distinct from

35 English;

36 “Deaf student”, an individual who has a severe or complete absence of auditory sensitivity which

37 adversely affects educational performance and which is so severe that the student is impaired in

38 processing linguistic information through hearing, with or without amplification;

39 “English sign systems”, sign systems developed for educational purposes, which use manual signs in

40 English word order; sometimes with added affixes which are not present in American sign language;

41 “Hard of hearing student”, an individual who has some absence of auditory sensitivity with residual

42 hearing, whether permanent or fluctuating, which adversely affects a child’s educational performance

43 but which is not included under the definition of “deaf student” in this section;

44 “Individualized education plan (IEP)”, a written educational plan developed for a student eligible for

45 special education services pursuant to the Code of Massachusetts regulations and the federal

46 Individual with Disabilities Education Act, 20 U.S.C. § 1400 et seq;

47 “Primary communication mode, style, and language”, the communication mode, style, and language

48 which is preferred by and most effective for a particular student, as determined by appropriate

49 language assessment undertaken by individuals proficient in the communication mode, style, or

50 languages being assessed. Communication mode may include one or more of the following systems or

51 methods of communication applicable to deaf or hard of hearing children:

52 (a) American Sign Language;

53 (b) English-based manual or sign systems; or

54 (c) Oral, aural, or speech-based training.

55 Children who are deaf or hard of hearing are entitled to appropriate screening and assessment of

56 hearing and vision capabilities and language and communication needs at the earliest possible age and

57 to the continuation of intermittent screening services throughout their educational experience.

58 Children who are deaf or hard of hearing are entitled to early intervention to provide for acquisition of
59 a solid language base(s) developed at the earliest possible age.

60 Children who are deaf or hard of hearing are entitled to have an education in which their
61 parents'/guardians' full informed participation in determining the extent, content, and purpose of all
62 their educational planning and programs.

63 Children who are deaf and hard of hearing are entitled to have an education in which teachers of the
64 deaf and hard of hearing, counselors, psychologists, speech therapists, diagnostic personnel,
65 administrators, and other special education personnel understand the unique nature of deafness and are
66 specifically trained to work with deaf and hard of hearing students.

67 Children who are deaf or hard of hearing are entitled to qualified teachers, teacher aides, interpreters of
68 the deaf and hard of hearing who have a background in deafness, have demonstrated proficiency in the
69 preferred language mode of those children and are qualified based on standards as set forth by the
70 Massachusetts commission for the deaf and hard of hearing.

71 Children who are deaf or hard of hearing are entitled to contact with and to be exposed to adult role
72 models who are deaf or hard of hearing in their educational programs.

73 Children who are deaf or hard of hearing are entitled to receive an education with a sufficient number
74 of language mode peers with whom they can communicate directly and who are of the same, or
75 approximately the same, age and ability level.

76 Deaf and hard of hearing children are entitled to have programs in which they have direct and
77 appropriate access to all components of programs services of the educational process, including, but
78 not limited to, extracurricular social and athletic activities.

79 Children who are deaf or hard of hearing are entitled to placement best suited to their individual needs,
80 including, but not limited to age, hearing loss, academic level, mode(s) of communications, style of

81 learning, motivational levels and family support.

82 Children who are deaf or hard of hearing are entitled to benefit from the development and

83 implementation of state and regional programs for children with low incidence disabilities.

84 Children who are deaf or hard of hearing are entitled to up-to-date technological devices and

85 equipment, acoustic enhancements such as carpeting in the classroom, assistive listening devices used

86 alone or in conjunction with a hearing aid such as audio loop and FM systems, visual technological

87 support to the classroom and school building.

88 Children who are deaf or hard of hearing are entitled to have the public fully informed concerning

89 medical, cultural, and linguistic issues of deafness and hearing loss.

90 Each deaf or hard of hearing student shall have a determination of the least restrictive environment that

91 takes into consideration these legislative findings and declarations.

92 SECTION 5. A person who is certified as a teacher of students who are deaf or hard of hearing shall

93 demonstrate continued competency in sign language or oral/aural communication for instruction as a

94 condition of renewal of certification in accordance with the provisions of section 38G of chapter 71 of

95 the General Laws.

96 SECTION 6. The assessment for communication proficiency in sign language and oral/aural

97 communication accepted by the department of education for certification of teachers of deaf or hard of

98 hearing students shall be determined or developed by the commission for the deaf and hard of hearing.

99 The assessment for interpreting proficiency in sign language or oral/aural communication accepted by

100 the department of education for certification of educational interpreters of deaf or hard of hearing

101 students shall be determined or developed by the commission for the deaf and hard of hearing.

102 SECTION 7. There is hereby established an advisory council on the education of children who are
103 deaf or hard of hearing consisting of 14 members to be appointed by the board of education in
104 consultation with the commission for the deaf and hard of hearing, one of whom shall have
105 professional experience in using assistive technology; two of whom shall be educators of deaf or hard
106 of hearing students, one of whom shall be a regular and effective user of American Sign language and
107 one of whom shall be a regular and effective user of oral/aural or speech based English; two parents of
108 deaf or hard of hearing students, one of whom is a regular and effective user of American sign
109 language and one of whom is a regular and effective user of oral/aural or speech based English; two
110 representatives of the deaf and hard of hearing community, one of whom is a user of American sign
111 language and one of whom is a user of oral/aural or speech based English; two administrators of
112 college or university teacher training programs, one of whom shall use American Sign language and
113 one of whom shall use oral/aural or speech based English; an administrator of a college or university
114 program in interpreter training; two administrators of programs or schools for deaf or hard of hearing
115 students, one of whom shall be an administrator of a program which uses American Sign language,
116 and one of whom shall be the administrator of a program which uses oral/aural or speech based
117 English; one shall be a representative of the Massachusetts Registry of Interpreters for the deaf; and
118 one shall be a representative of the commission for the deaf and hard of hearing.

119 The council shall file a report with the clerk of the house of representatives who shall forward the
120 same to the joint committee on education on the first Wednesday in July, of each year commencing
121 with July 5, 2007. Said report shall include, but not be limited to the following: the number of teachers
122 certified pursuant to section 38G of chapter 71 of the General Laws, the number of deaf and hard of
123 hearing students accepting such instructions; the percentage and type of assistive technology and other
124 educational materials available, and such recommendations as it may make to improve the amount and

- 125 variety of such materials; and findings and recommendations concerning the employment conditions
- 126 of teachers of students who are deaf or hard of hearing.